THE HON'BLE Dr. JUSTICE G. YETHIRAJULU

W.P.No.17308 of 1995

Dated this the 9th day of December, 2005

Between:

Battu Bernardine, 61 years,

S/o. Abrahim, r/o. Vijyawada. … **Petitioner**

and

Govt. of A.P., rep.by its Secretary,

Department of Education, Secretariat,

Hyderabad and three others.

… **Respondents**

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ORDER:

The petitioner approached this court through this writ petition seeking to declare the action of the respondents in not finalizing the pension and in insisting on an

undertaking for refund of the salary received by him during the period he worked beyond 58 days as illegal and arbitrary, and to direct the respondents to pay full salary including the increments for the period from June 1992 to July 1993.

The petitioner conceded that the period of superannuation of the lecturers working in the colleges was reduced to 58 years and in pursuance of that he retired from service before completion of 60 years after working for some period after completion of 58 years. The petitioner is claiming that he is entitled to all the benefits for the period he worked after completion of 58 years.

The learned Government Pleader for Higher Education represented that whatever monetary benefits that were payable to the petitioner for the period he worked after completion of 58 years was paid to him and he is not entitled to get the pension fixed on the basis of the extra service that was rendered by him after completion of 58 years and as the petitioner did not submit the pension papers till now, his pension could not be fixed and released, therefore, submitted that the petition has to be dismissed as devoid of merits.

The main grievance of the petitioner is that the respondents forcibly took an undertaking from the petitioner that in the event of limiting the period of superannuation to 58 years, he has to refund the salary received by him for the subsequent period.

In the light of the contentions of the respective parties and the material available on record, I am inclined to give the following directions.

i. The petitioner is entitled to pension on the basis of length of service till he completed 58 years. The pension papers, if any, submitted by the petitioner shall be processed and the pension shall be fixed on that basis.

ii. In terms of G.O.Ms.No.578, dated 22-04-1995 since the petitioner is entitled for pay and allowance for the period of work he rendered beyond 58 years and if any, amount remains due, he is at liberty to make an application for the difference of such amount and the respondents are directed to pass appropriate orders on such application.

iii. The respondents are not entitled to recover the salary, if any, paid to the

petitioner for the period he worked beyond 58 years.

iv. The petitioner is not entitled for any increments for the period of work beyond 58 years.

The writ petition is, accordingly, disposed of. No order as to costs.

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Dr.G. YETHIRAJULU, J

Date: 09-12-2005

Note: Issue CC in one week

(B/o.)

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